

EXHIBIT A



Corporate Creations Network Inc.
801 US Highway 1 North Palm Beach, FL 33408

Harbor Freight Tools USA, Inc.
Tammy Stafford Associate General Counsel
Harbor Freight Tools USA Inc
26677 Agoura Road
Calabasas CA 91302

02/02/2023

SERVICE OF PROCESS NOTICE

The following is a courtesy summary of the enclosed document(s). **ALL information should be verified by you.**

Item: 2023-88

Note: Any questions regarding the substance of the matter described below, including the status or how to respond, should be directed to the contact set forth in line 12 below or to the court or government agency where the matter is being heard. **IMPORTANT:** All changes or updates to the SOP contact individuals or their contact information must be submitted in writing to SOPcontact@corpcreations.com. Any changes will become effective upon written confirmation of Corporate Creations.

1.	Entity Served:	Harbor Freight Tools USA, Inc.
2.	Title of Action:	Michael W. Wagner vs. Harbor Freight Tools USA, Inc.
3.	Document(s) Served:	Summons Complaint
4.	Court/Agency:	St. Clair County Circuit Court
5.	State Served:	Illinois
6.	Case Number:	22LA1110
7.	Case Type:	Negligence/Strict Liability
8.	Method of Service:	Hand Delivered
9.	Date Received:	Friday 01/27/2023
10.	Date to Client:	Thursday 02/02/2023
11.	# Days When Answer Due: Answer Due Date:	30 Sunday 02/26/2023 CAUTION: Client is solely responsible for verifying the accuracy of the estimated Answer Due Date. To avoid missing a crucial deadline, we recommend immediately confirming in writing with opposing counsel that the date of the service in their records matches the Date Received.
12.	Sop Sender: (Name, City, State, and Phone Number)	Joshua D. Margolis St. Louis, MO 314-725-5050
13.	Shipped To Client By:	Email Only with PDF Link
14.	Tracking Number:	
15.	Handled By:	141
16.	Notes:	Please note an unexpected delay in delivery of the document was experienced due to extreme weather conditions. We apologize for any inconvenience.

NOTE: This notice and the information above is provided for general informational purposes only and should not be considered a legal opinion. The client and their legal counsel are solely responsible for reviewing the service of process and verifying the accuracy of all information. At Corporate Creations, we take pride in developing systems that effectively manage risk so our clients feel comfortable with the reliability of our service. We always deliver service of process so our clients avoid the risk of a default judgment. As registered agent, our role is to receive and forward service of process. To decrease risk for our clients, it is not our role to determine the merits of whether service of process is valid and effective. It is the role of legal counsel to assess whether service of process is invalid or defective. Registered agent services are provided by Corporate Creations Network Inc.

02/10

FOREIGN

SUMMONS

**STATE OF ILLINOIS,
CIRCUIT COURT**

St. Clair ☐ COUNTY

Instructions ▼

Enter above the county name where the case was filed.

Enter your name as Plaintiff/Petitioner.

Enter the names of all people you are suing as Defendants/Respondents.

Enter the Case Number given by the Circuit Clerk.

Michael W. Wagner
Plaintiff / Petitioner (First, middle, last name)

v.

Harbor Freight Tools USA, Inc.
Defendant / Respondent (First, middle, last name)

☐ **Alias Summons** (Check this box if this is not the 1st Summons issued for this Defendant.)

22LA1110
Case Number

IMPORTANT INFORMATION:

There may be court fees to start or respond to a case. If you are unable to pay your court fees, you can apply for a fee waiver. You can find the fee waiver application at: illinoiscourts.gov/documents-and-forms/approved-forms.

E-filing is now mandatory with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit efile.illinoiscourts.gov/service-providers.htm to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit illinoiscourts.gov/faq/gethelp.asp or talk with your local circuit clerk's office. If you cannot e-file, you may be able to get an exemption that allows you to file in-person or by mail. Ask your circuit clerk for more information or visit illinoislegalaid.org.

Call or text Illinois Court Help at 833-411-1121 for information about how to go to court including how to fill out and file forms. You can also get free legal information and legal referrals at illinoislegalaid.org.

Plaintiff/Petitioner: Do not use this form in an eviction, small claims, detinue, divorce, or replevin case. Use the *Eviction Summons*, *Small Claims Summons*, or *Summons Petition for Dissolution of Marriage / Civil Union* available at illinoiscourts.gov/documents-and-forms/approved-forms. If your case is a detinue or replevin, visit illinoislegalaid.org for help.

If you are suing more than 1 Defendant/Respondent, fill out a *Summons* form for each Defendant/Respondent.

In 1a, enter the name and address of a Defendant/Respondent. If you are serving a Registered Agent, include the Registered Agent's name and address here.

In 1b, enter a second address for Defendant/Respondent, if you have one.

In 1c, check how you are sending your documents to Defendant/Respondent.

1. Defendant/Respondent's address and service information:

a. Defendant/Respondent's primary address/information for service:
 Name (First, Middle, Last): Harbor Freight Tools USA, Inc.
 Registered Agent's name, if any: Corporate Creations Network IN
 Street Address, Unit #: 350 S. Northwest Highway #300
 City, State, ZIP: Park Ridge, IL 60068
 Telephone: _____ Email: _____

b. If you have more than one address where Defendant/Respondent might be found, list that here:
 Name (First, Middle, Last): _____
 Street Address, Unit #: _____
 City, State, ZIP: _____
 Telephone: _____ Email: _____

c. Method of service on Defendant/Respondent:
☒ Sheriff ☐ Sheriff outside Illinois: _____
 County & State _____
☐ Special process server ☐ Licensed private detective

DOC TYPE: SUMMONS
CASE NUMBER: 22LA1110
DEFENDANT
HARBOR FREIGHT TOOLS USA INC
350 S NORTHWEST HWY
PARK RIDGE, IL 60068
DIE DATE 02/10/2023
SERVICE INFO
R/A CORP OF
NETWORK II
ATTACHED

In 2, enter the amount of money owed to you.

In 3, enter your complete address, telephone number, and email address, if you have one.

2. Information about the lawsuit:

Amount claimed: \$ 50,000.00

3. Contact information for the Plaintiff/Petitioner:

Name (First, Middle, Last): Wagner, Michael W.

Street Address, Unit #: 33 Lakeshore Dr.

City, State, ZIP: Belleville, IL 62220

Telephone: (618) 550-2010 Email:

GETTING COURT DOCUMENTS BY EMAIL: You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

Important information for the person getting this form

You have been sued. Read all of the documents attached to this *Summons*. To participate in the case, you must follow the instructions listed below. If you do not, the court may decide the case without hearing from you and you could lose the case. *Appearance* and *Answer/Response* forms can be found at: illinoiscourts.gov/documents-and-forms/approved-forms/.

Check 4a or 4b. If Defendant/Respondent only needs to file an *Appearance* and *Answer/Response* within 30 days, check box 4a. Otherwise, if the clerk gives you a court date, check box 4b.

In 4a, fill out the address of the court building where the Defendant may file or e-file their *Appearance* and *Answer/Response*.

In 4b, fill out:

- The court date and time the clerk gave you.
- The courtroom and address of the court building.
- The call-in or video information for remote appearances (if applicable).
- The clerk's phone number and website. All of this information is available from the Circuit Clerk.

4. Instructions for person receiving this *Summons* (Defendant):

- ☒ a. To respond to this *Summons*, you must file *Appearance* and *Answer/Response* forms with the court within 30 days after you have been served (not counting the day of service) by e-filing or at:

Address: _____

City, State, ZIP: _____

- ☐ b. Attend court:

On: _____ at _____ ☐ a.m. ☐ p.m. in _____ Courtroom

In-person at:

Courthouse Address _____ City _____ State _____ ZIP _____

OR

Remotely (You may be able to attend this court date by phone or video conference.

This is called a "Remote Appearance"):

By telephone:

Call-in number for telephone remote appearance _____

By video conference:

Video conference website _____

Video conference log-in information (meeting ID, password, etc.) _____

Call the Circuit Clerk at: _____ or visit their website

Circuit Clerk's phone number _____

at: _____ to find out more about how to do this.

Website _____

STOP!

The Circuit Clerk will fill in this section.

STOP!

The officer or process server will fill in the Date of Service.

Witness this Date: 1/12/2023

Nora Sternau

Clerk of the Court: KINNIS WILLIAMS SR

This *Summons* must be served within 30 days of the witness date.

Date of Service:

(Date to be entered by an officer or process server on the copy of this *Summons* left with the Defendant or other person.)

STATE OF ILLINOIS, CIRCUIT COURT COUNTY		PROOF OF SERVICE OF SUMMONS AND COMPLAINT/PETITION	For Court Use Only
Instructions Enter above the county name where the case was filed.	Michael W. Wagner Plaintiff / Petitioner (First, middle, last name)		22LA1110 Case Number
Enter your name as Plaintiff/Petitioner.	v.		
Enter the names of all people you are suing as Defendants/ Respondents.	Harbor Freight Tools USA, Inc. Defendant / Respondent (First, middle, last name)		
Enter the Case Number given by the Circuit Clerk.	<input type="checkbox"/> Alias Summons (Check this box if this is not the 1 st Summons issued for this Defendant.)		

****Stop. Do not complete the form. The sheriff or special process server will fill in the form.****

My name is _____ **and I state** _____

First, Middle, Last

☐ I served the *Summons* and Complaint/Petition on the Defendant/Respondent.

as follows:

First, Middle, Last

- ☐ Personally on the Defendant/Respondent:

Male ☐ Female ☐ Non-Binary ☐ Approx. Age: _____ Race: _____

On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address, Unit#: _____

City, State, ZIP: _____

- ☐ On someone else at the Defendant/Respondent's home who is at least 13 years old and is a family member or lives there:

On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address, Unit#: _____

City, State, ZIP: _____

And left it with: _____

First, Middle, Last

Male ☐ Female ☐ Non-Binary ☐ Approx. Age: _____ Race: _____

and by sending a copy to this defendant in a postage-paid, sealed envelope to the above address on _____, 20 _____.

- ☐ On the Corporation's agent, _____
First, Middle, Last

First, Middle, Last

Male ☐ Female ☐ Non-Binary ☐ Approx. Age: _____ Race: _____

On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address: _____

City, State, ZIP: _____

☐ I was not able to serve the *Summons* and Complaint/Petition on Defendant/Respondent:

First, Middle, Last

I made the following attempts to serve the *Summons* and Complaint/Petition on the Defendant/Respondent:

1. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address: _____

City, State, ZIP: _____

Other information about service attempt: _____

2. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address: _____

City, State, ZIP: _____

Other information about service attempt: _____

3. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address: _____

City, State, ZIP: _____

Other information about service attempt: _____

DO NOT complete this section. The sheriff or private process server will complete it.

If you are a special process server, sheriff outside Illinois, or licensed private detective, your signature certifies that everything on the *Proof of Service of Summons* is true and correct to the best of your knowledge. You understand that making a false statement on this form could be perjury.

By:

Signature by: ☐ Sheriff

☐ Sheriff outside Illinois:

County and State

☐ Special process server
☐ Licensed private detective

FEES

Service and Return:	\$
Miles	\$
Total	\$ 0.00

Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.

Print Name

If *Summons* is served by licensed private detective or private detective agency:

License Number: _____

STATE OF ILLINOIS, CIRCUIT COURT St. Clair <input type="checkbox"/> COUNTY	SUMMONS	
Instructions ▼ Enter above the county name where the case was filed. Enter your name as Plaintiff/Petitioner. Enter the names of all people you are suing as Defendants/Respondents. Enter the Case Number given by the Circuit Clerk.	Michael W. Wagner Plaintiff / Petitioner (First, middle, last name) v. Harbor Freight Tools USA, Inc. Defendant / Respondent (First, middle, last name) <input type="checkbox"/> Alias Summons (Check this box if this is not the 1 st Summons issued for this Defendant.)	22LA1110 Case Number

IMPORTANT INFORMATION:	<p>There may be court fees to start or respond to a case. If you are unable to pay your court fees, you can apply for a fee waiver. You can find the fee waiver application at: illinoiscourts.gov/documents-and-forms/approved-forms/.</p> <p>E-filing is now mandatory with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit efile.illinoiscourts.gov/service-providers.htm to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit illinoiscourts.gov/faq/gethelp.asp or talk with your local circuit clerk's office. If you cannot e-file, you may be able to get an exemption that allows you to file in-person or by mail. Ask your circuit clerk for more information or visit illinoislegalaid.org.</p> <p>Call or text Illinois Court Help at 833-411-1121 for information about how to go to court including how to fill out and file forms. You can also get free legal information and legal referrals at illinoislegalaid.org.</p>
Plaintiff/Petitioner:	<p>Do not use this form in an eviction, small claims, detinue, divorce, or replevin case. Use the <i>Eviction Summons</i>, <i>Small Claims Summons</i>, or <i>Summons Petition for Dissolution of Marriage / Civil Union</i> available at illinoiscourts.gov/documents-and-forms/approved-forms. If your case is a detinue or replevin, visit illinoislegalaid.org for help.</p> <p>If you are suing more than 1 Defendant/Respondent, fill out a <i>Summons</i> form for each Defendant/Respondent.</p>

In 1a, enter the name and address of a Defendant/Respondent. If you are serving a Registered Agent, include the Registered Agent's name and address here.	1. Defendant/Respondent's address and service information: a. Defendant/Respondent's primary address/information for service: Name (First, Middle, Last): <u>Harbor Freight Tools USA, Inc.</u> Registered Agent's name, if any: <u>Corporate Creations Network IN</u> Street Address, Unit #: <u>350 S. Northwest Highway #300</u> City, State, ZIP: <u>Park Ridge, IL 60068</u> Telephone: _____ Email: _____
In 1b, enter a second address for Defendant/Respondent, if you have one.	b. If you have more than one address where Defendant/Respondent might be found, list that here: Name (First, Middle, Last): _____ Street Address, Unit #: _____ City, State, ZIP: _____ Telephone: _____ Email: _____
In 1c, check how you are sending your documents to Defendant/Respondent.	c. Method of service on Defendant/Respondent: <input checked="" type="checkbox"/> Sheriff <input type="checkbox"/> Sheriff outside Illinois: _____ <div style="text-align: right;">County & State</div> <input type="checkbox"/> Special process server <input type="checkbox"/> Licensed private detective

DOC TYPE: SUMMONS
CASE NUMBER: 22LA1110
DEFENDANT:
HARBOR FREIGHT TOOLS USA INC
350 S NORTHWEST HWY
PARK RIDGE, IL 60068



DIE DATE
02/10/2023

SERVICE INF
RIA CORPOF
NETWORK II
ATTACHED

In 2, enter the amount of money owed to you.

2. **Information about the lawsuit:**
Amount claimed: \$ 50,000.00

In 3, enter your complete address, telephone number, and email address, if you have one.

3. **Contact information for the Plaintiff/Petitioner:**
Name (First, Middle, Last): Wagner, Michael W.
Street Address, Unit #: 33 Lakeshore Dr.
City, State, ZIP: Belleville, IL 62220
Telephone: (618) 550-2010 Email: _____

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Important information for the person getting this form

You have been sued. Read all of the documents attached to this *Summons*. To participate in the case, you must follow the instructions listed below. If you do not, the court may decide the case without hearing from you and you could lose the case. *Appearance* and *Answer/Response* forms can be found at: illinoiscourts.gov/documents-and-forms/approved-forms/.

Check 4a or 4b. If Defendant/Respondent only needs to file an *Appearance* and *Answer/Response* within 30 days, check box 4a. Otherwise, if the clerk gives you a court date, check box 4b.

In 4a, fill out the address of the court building where the Defendant may file or e-file their *Appearance* and *Answer/Response*.

In 4b, fill out:
•The court date and time the clerk gave you.
•The courtroom and address of the court building.
•The call-in or video information for remote appearances (if applicable).
•The clerk's phone number and website. All of this information is available from the Circuit Clerk.

4. **Instructions for person receiving this *Summons* (Defendant):**

- ☒ a. To respond to this *Summons*, you must file *Appearance* and *Answer/Response* forms with the court within 30 days after you have been served (not counting the day of service) by e-filing or at:

Address: _____
City, State, ZIP: _____

- ☐ b. Attend court:

On: _____ at _____ ☐ a.m. ☐ p.m. in _____
Date Time Courtroom

In-person at:

Courthouse Address City State ZIP
OR

Remotely (You may be able to attend this court date by phone or video conference. This is called a "Remote Appearance"):

By telephone: _____
Call-in number for telephone remote appearance

By video conference: _____
Video conference website

Video conference log-in information (meeting ID, password, etc.)

Call the Circuit Clerk at: _____ or visit their website
Circuit Clerk's phone number

at: _____ to find out more about how to do this.
Website

1/12/2023
Nora Sternau

Witness this Date: _____

Clerk of the Court: KINNIS WILLIAMS SR

This *Summons* must be served within 30 days of the witness date.

Date of Service: _____
(Date to be entered by an officer or process server on the copy of this *Summons* left with the Defendant or other person.)

STOP!

The Circuit Clerk will fill in this section.

STOP!

The officer or process server will fill in the Date of Service.

☐ I was not able to serve the *Summons* and Complaint/Petition on Defendant/Respondent.

First, Middle, Last

I made the following attempts to serve the *Summons* and Complaint/Petition on the Defendant/Respondent:

1. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address: _____
City, State, ZIP: _____
Other information about service attempt: _____

2. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address: _____
City, State, ZIP: _____
Other information about service attempt: _____

3. On this date: _____ at this time: _____ ☐ a.m. ☐ p.m.

Address: _____
City, State, ZIP: _____
Other information about service attempt: _____

DO NOT complete this section. The sheriff or private process server will complete it.

If you are a special process server, sheriff outside Illinois, or licensed private detective, your signature certifies that everything on the *Proof of Service of Summons* is true and correct to the best of your knowledge. You understand that making a false statement on this form could be perjury.

By:

FEES

Service and Return: \$ _____
Miles \$ _____
Total \$ 0.00

Signature by: ☐ Sheriff
☐ Sheriff outside Illinois:

County and State

☐ Special process server
☐ Licensed private detective

Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.

Print Name

If *Summons* is served by licensed private detective or private detective agency:

License Number: _____

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

MICHAEL W. WAGNER,

Plaintiff,

v.

HARBOR FREIGHT TOOLS USA, INC.

Serve: Registered Agent
Corporate Creations Network IN
350 S. Northwest Highway #300
Park Ridge, IL 60068

Defendant.

Cause No.: 22LA1110

Division:

JURY OF TWELVE DEMANDED

COMPLAINT

COMES NOW Plaintiff, Michael W. Wagner, by and through his undersigned counsel,
and for his Complaint against Defendant Harbor Freight Tools USA, Inc., states:

Parties

1. Plaintiff Michael Wagner is a resident of St. Clair County, Illinois.
2. Defendant Harbor Freight Tools USA, Inc. is a Delaware corporation in good standing with a license to operate its retail stores in Illinois.
3. Defendant is a tool and equipment manufacturer, distributor, and retailer that operates a chain of retail stores called Harbor Freight Tools throughout the United States, and specifically in Illinois. Its registered agent for service is Corporate Creations Network IN, 350 S. Northwest Highway #300, Park Ridge, IL 60068.

Jurisdiction and Venue

4. Jurisdiction in this State is proper as Defendant does significant business and has one or more stores in the state of Illinois for the transaction of business, including the sale of products, including the product which injured Plaintiff.

5. Venue in this Court is proper under 735 ILCS 5/2-101 as there is one or more claim for tort causes of action, and Plaintiff purchased the product at issue at Defendant's store located at 10709 Lincoln Trail, Fairview Heights, Illinois 62208.

Factual Allegations Common to All Counts

6. Plaintiff purchased from Defendant, a Chicago Electric Power Tools 3 piece set of 1 ½" rotary cut-off wheels ("rotary cut-off wheels"), Item 34749, at Defendant's store located at 10709 Lincoln Trail, Fairview Heights, Illinois 62208.

7. Defendant was not only the seller and distributor of the product but was also the manufacturer, as it created the Chicago Electric Power Tools brand to sell at its stores.

8. The rotary cut-off wheels were designed for use with rotary tools to cut materials, including plastic and metal.

9. Plaintiff first used Defendant's product in a reasonably anticipated manner on or about January 19, 2021.

10. On January 19, 2021, Plaintiff placed a single rotary cut-off wheel on his rotary tool and turned the rotary tool on. The single rotary cut-off wheel broke off the rotary tool and bounced off Plaintiff's chest and went underneath his face shield and hit his left eye.

11. The failure of the product occurred due to a manufacturing defect on the single rotary cut-off wheel, which indicated cracks and/or fractures and/or a lack of bonding on the single rotary cut-off wheel.

12. The failure of the product caused the single rotary cut-off wheel to break off the rotary tool and strike Plaintiff's left eye.

Count I – Strict Liability

COMES NOW Plaintiff Michael W. Wagner and for Count I of his Complaint against Defendant Harbor Freight Tools USA, Inc., states:

13. Plaintiff re-alleges each and every allegation contained in paragraphs 1 through 12 as if fully set forth herein.

14. Defendant designed, manufactured, assembled, marketed, sold, distributed, and/or supplied the product in the ordinary course of its business.

15. At the time of the incident, the product was in substantially the same condition as when it was designed, manufactured, assembled, marketed, sold, distributed, and/or supplied by Defendant in the ordinary course of its business.

16. Defendant sold the product to Plaintiff in the regular course of its business.

17. At the time of the product's sale, it was in a defective condition unreasonably dangerous when put to a reasonably anticipated use in that:

- a. the product did not have adequate design and/or manufacturing to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
- b. the product lacked proper safety mechanisms to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
- c. the product was made and/or constructed without sufficient strength to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
- d. the product had numerous hairline fractures;
- e. the product had a lack of bonding;

- f. the product was made and/or constructed with improper materials;
- g. the product was manufactured in such a way that it did not meet the design requirements for use;
- h. the product was designed in such a way that it did not meet the design requirements for use;
- i. the product was not properly tested to ensure that it was sufficiently strong as to not fail;
- j. the product violated safety rules, standards, and best practices;
- k. the product was manufactured and/or designed in such a way as to fail when used in the manner intended;
- l. the product was manufactured and/or designed with inadequate strength for ordinary and foreseeable rotary tool use;
- m. the product was not properly tested in foreseeable use environments;
- n. the product components were not integrated in such a way as to prevent it from failing; and/or
- o. the product had inadequate instructions and/or warnings.

18. The above defects and dangerous conditions existed when the product was designed, manufactured, assembled, marketed, sold, distributed, and/or supplied by Defendant.

19. As a direct and proximate result of the defective and unreasonably dangerous condition, Plaintiff was caused to sustain injuries to his left eye, head, and brain, he has incurred medical expenses in an amount not readily ascertainable, lost wages, and will continue to incur medical expenses in an amount not readily ascertainable.

WHEREFORE, Plaintiff Michael W. Wagner prays for judgment against Defendant on Count I of this Complaint in an amount in excess of Fifty Thousand Dollars (\$50,000.00) that will fairly and reasonably compensate him for his injuries, for the losses he sustained and will sustain in the future, for medical bills and lost wages he has sustained and will sustain in the future, for the pain, suffering and restricted bodily movement sustained and will sustain in the future, for the costs of these proceedings, and for such other and further relief as the Court deems just and equitable.

Count II – Failure to Warn

COMES NOW Plaintiff Michael Wagner, and for Count II of his Complaint against Defendant Harbor Freight Tools USA, Inc., states:

20. Plaintiff re-alleges each and every allegation contained in paragraphs 1 through 19 as if fully set forth herein.

21. Defendant sold the product to Plaintiff in the regular course of its business and/or put the product into the stream of commerce as part of and in the course of its business.

22. The product was unreasonably dangerous when put to a reasonably anticipated use, without Plaintiff's knowledge, of the product's characteristics at the time it was placed in the stream of commerce and/or sold by Defendant in the course of its business.

23. Defendant was aware and/or had reason to be aware that users of the product such as Plaintiff would not realize its dangerous condition.

24. Defendant did not provide an adequate warning of the dangers of the product which made it likely to be dangerous.

25. Defendant failed to provide a proper or appropriate warning that:

- a. the product may sustain a failure of the single rotary cut-off wheel which would result in it separating and/or breaking from the rotary tool;

- b. the product lacked adequate design to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
- c. the product lacked safety features to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
- d. the product was dangerous for the use for which it was supplied; and/or
- e. the instructions and/or warnings did not warn against the single rotary cut-off wheel separating and/or breaking from the rotary tool.

26. At the time of the incident, the product was unreasonably dangerous when put to a reasonably anticipated use without Plaintiff's knowledge of its characteristics, and Defendant had reason to know the product was dangerous or was likely to be dangerous for the use for which it was supplied.

27. At the time of the incident, Plaintiff was a reasonably anticipated and/or expected user of the product.

28. Plaintiff was injured when the product failed, the failure of which Plaintiff was unaware was likely to occur, due to the lack of an adequate and proper warning of these dangers.

29. As a direct and proximate result of the failure to warn, Plaintiff was caused to sustain injuries to his left eye, head, and brain, he has incurred medical expenses in an amount not readily ascertainable, lost wages, and will continue to incur medical expenses in an amount not readily ascertainable.

WHEREFORE, Plaintiff Michael W. Wagner prays for judgment against Defendant on Count II of this Complaint in an amount in excess of Fifty Thousand Dollars (\$50,000.00) that will fairly and reasonably compensate him for his injuries, for the losses he sustained and will sustain in the future, for medical bills and lost wages he has sustained and will sustain in the future, for the pain,

suffering and restricted bodily movement sustained and will sustain in the future, for the costs of these proceedings, and for such other and further relief as the Court deems just and equitable.

Count III – Negligence

COMES NOW Plaintiff Michael Wagner, and for Count III of his Complaint against Defendant Harbor Freight Tools USA, Inc., states:

30. Plaintiff re-alleges each and every allegation contained in paragraphs 1 through 29 as if fully set forth herein.

31. At all relevant times, Defendant owed a duty to the public in general and Plaintiff in particular to exercise reasonable care in designing, manufacturing, distributing, selling, monitoring for safety, and testing of the product it sold and/or put into the stream of commerce, including the duty to assure the product did not cause Plaintiff to suffer reasonably foreseeable dangerous consequences arising from the expected use of the product.

32. Defendant was negligent, and breached its duties in one or more of the following acts of commission and/or omission:

- a. In designing the product:
 1. without adequate protection to prevent the single rotary cut-off wheel fitting from separating and/or breaking from the rotary tool;
 2. without proper safety mechanisms to prevent the single rotary cut-off wheel fitting from separating and/or breaking from the rotary tool;
 3. without sufficient strength to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 4. with improper materials;

5. in such a way that it did not meet the design requirements for use;
6. without being sufficiently strong as to not fail;
7. in violation of safety rules, standards, and best practices;
8. in such a way as to fail when used in the manner intended;
9. without adequate strength for ordinary and foreseeable rotational force of rotary tool use;
10. without available safety technology, materials, and/or devices to make sure it was safe for its intended purpose and uses;
11. such that it did not meet reasonable safety standards single rotary cut-off wheel design; and/or
12. with inadequate instructions and/or warnings.

b. In manufacturing the product:

1. without adequate protection to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
2. without proper safety mechanisms to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
3. without sufficient strength to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
4. with improper materials;
5. in such a way that it did not meet the design requirements for use;
6. without being sufficiently strong as to not fail;
7. in violation of safety rules, standards, and best practices;
8. in such a way as to fail when used in the manner intended;

9. without adequate strength for ordinary and foreseeable rotary tool use;
 10. without available safety technology, materials, and/or devices to make sure it was safe for its intended purpose and uses;
 11. such that it did not meet reasonable safety standards for single rotary cut-off wheel; and/or
 12. with inadequate instructions and/or warnings.
- c. In furnishing, selling, and/or providing the product:
1. without adequate protection to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 2. without proper safety mechanisms to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 3. without sufficient strength to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 4. with improper materials;
 5. in such a way that it did not meet the design requirements for use;
 6. without being sufficiently strong as to not fail;
 7. in violation of safety rules, standards, and best practices;
 8. in such a way as to fail when used in the manner intended;
 9. without adequate strength for ordinary and foreseeable rotary tool use;
 10. without available safety technology, materials, and/or devices to make sure it was safe for its intended purpose and uses;

11. such that it did not meet reasonable safety standards for single rotary cut-off wheel design; and/or
 12. with inadequate instructions and/or warnings.
- d. In failing to properly test the product to ensure:
1. it had adequate protection to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 2. it had proper safety mechanisms to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 3. it had sufficient strength to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 4. it had proper materials;
 5. it met the design requirements for use;
 6. it was sufficiently strong as to not fail;
 7. it met safety rules, standards, and best practices;
 8. it did not fail when used in the manner intended;
 9. it had adequate strength for ordinary and foreseeable rotary tool use;
 10. it utilized available safety technology, materials, and/or devices to make sure it was safe for its intended purpose and uses;
 11. it met reasonable safety standards for single rotary cut-off wheel design; and/or
 12. it contained adequate instructions and/or warnings.
- e. In failing to warn purchasers, owners, and/or users that the product:

1. had inadequate protection to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 2. had improper safety mechanisms to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 3. had insufficient strength to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 4. had improper materials;
 5. did not meet the design requirements for use;
 6. was not sufficiently strong as to not fail;
 7. violated safety rules, standards, and best practices;
 8. would fail when used in the manner intended;
 9. had inadequate strength for ordinary and foreseeable rotary tool use;
 10. was made without available safety technology, materials, and/or devices to make sure it was safe for its intended purpose and uses;
 11. did not meet reasonable safety standards for single rotary cut-off wheel design; and/or
 12. had inadequate instructions and/or warnings.
- f. In failing to take action to recall, retrofit, or otherwise protect customers and others who were expected to use the product due to the fact it:
1. had inadequate protection to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
 2. had improper safety mechanisms to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;

3. had insufficient strength to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
4. had improper materials;
5. did not meet the design requirements for use;
6. was not sufficiently strong as to not fail;
7. violated safety rules, standards, and best practices;
8. would fail when used in the manner intended;
9. had inadequate strength for ordinary and foreseeable rotary tool use;
10. was made without available safety technology, materials, and/or devices to make sure it was safe for its intended purpose and uses;
11. did not meet reasonable safety standards for single rotary cut-off wheel design; and/or
12. had inadequate instructions and/or warnings.

33. As a direct and proximate result of Defendant's negligence, Plaintiff was caused to sustain injuries to his left eye, head, and brain, he has incurred medical expenses in an amount not readily ascertainable, lost wages, and will continue to incur medical expenses in an amount not readily ascertainable.

WHEREFORE, Plaintiff Michael Wagner prays for judgment against Defendant on Count III of this Complaint in an amount in excess of Fifty Thousand Dollars (\$50,000.00) that will fairly and reasonably compensate him for his injuries, for the losses he sustained and will sustain in the future, for medical bills and lost wages he has sustained and will sustain in the future, for the pain, suffering and restricted bodily movement sustained and will sustain in the future, for the costs of these proceedings, and for such other and further relief as the Court deems just and equitable.

Count IV – Breach of Implied Warranty of Fitness for a Particular Purpose

COMES NOW Plaintiff Michael Wagner, and for Count IV of his Complaint against Defendant Harbor Freight Tools USA, Inc., states:

34. Plaintiff re-alleges each and every allegation contained in paragraphs 1 through 33 as if fully set forth herein.

35. Defendant had reason to know that the particular purpose for which the product was to be used.

36. Defendant had reason to know that the buyer was relying on the skill and judgment of Defendant to select or furnish suitable products and components.

37. The product was not fit for its intended use when it was sold to Plaintiff.

38. Defendant breached its warranties as set forth above, and further, in that the product was defective in that:

- a. the product did not have adequate protection prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
- b. the product lacked proper safety mechanisms to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
- c. the product was made and/or constructed without sufficient strength to prevent the single rotary cut-off wheel from separating and/or breaking from the rotary tool;
- d. the product was made and/or constructed with improper materials;

- e. the product was manufactured in such a way that it did not meet the design requirements for use;
- f. the product was designed in such a way that it did not meet the design requirements for use;
- g. the product was not properly tested to ensure that it was sufficiently strong as to not fail;
- h. the product violated safety rules, standards, and best practices;
- i. the product was manufactured and/or designed in such a way as to fail when used in the manner intended;
- j. the product was manufactured and/or designed with inadequate strength for ordinary and foreseeable rotary tool use;
- k. the product was not properly tested in foreseeable use environments;
- l. the product components were not integrated in such a way as to prevent it from failing; and/or
- m. the product had inadequate instructions and/or warnings.

39. The defective and dangerous conditions existed when the product was designed, manufactured, assembled, marketed, sold, distributed, and/or recommended for the purpose for which it was put, resulting in Plaintiff's injury.

40. As a direct and proximate result of Defendant's breach of warranty, Plaintiff was caused to sustain injuries to his left eye, head, and brain, he has incurred medical expenses in an amount not readily ascertainable, lost wages, and will continue to incur medical expenses in an amount not readily ascertainable.

WHEREFORE, Plaintiff Michael Wagner prays for judgment against Defendant on Count IV of this Complaint in an amount in excess of Fifty Thousand Dollars (\$50,000.00) that will fairly and reasonably compensate him for his injuries, for the losses he sustained and will sustain in the future, for medical bills and lost wages he has sustained and will sustain in the future, for the pain, suffering and restricted bodily movement sustained and will sustain in the future, for the costs of these proceedings, and for such other and further relief as the Court deems just and equitable.

Count V – Supplying a Dangerous Chattel or Product

COMES NOW Plaintiff Michael Wagner and for Count V of his Complaint against Defendant Harbor Freight Tools USA, Inc., states:

41. Plaintiff re-alleges each and every allegation contained in paragraphs 1 through 40 as if fully set forth herein.

42. At all relevant times, Defendant was in the business of designing, manufacturing, assembling, testing, marketing, selling, distributing, and/or advertising the product, which failed, and did so in the ordinary course of its business.

43. Defendant supplied the product to Plaintiff for its business purpose.

44. Defendant did and/or should have expected Plaintiff to use the product for its intended use.

45. Defendant knew and/or had reason to know that the product had a particular defect(s) when put to the reasonably expected use, as further set forth in this Petition.

46. Plaintiff used the product in the manner for which it was supplied.

47. Plaintiff was a person for whom the product was supplied and was a reasonably expected person to be endangered by its probable use.

48. The product was defective for the reasons set forth above and which have been incorporated into this Count.

49. Defendant knew or should have known in the exercise of reasonable care of the product's defective condition.

50. Defendant had actual or constructive knowledge of the defective condition of the product, which was discovered, could have been discovered, and/or should have been discovered before the product was supplied.

51. Defendant had no reason to believe users such as Plaintiff would realize the danger posed by the product's defective condition.

52. The product's defective condition was discoverable by Defendant upon inspection, but not discoverable by Plaintiff.

53. Defendant failed to sufficiently inspect and/or test the defective product. Defendant failed to inform and/or warn Plaintiff of the product's defective condition.

54. Defendant failed to exercise ordinary or reasonable care to make the product safe for the use for which it was supplied.

55. Defendant failed to exercise ordinary or reasonable care to adequately warn of the product's defective condition, or the facts that made it likely to be dangerous.

56. Defendant knew or had reason to know the reasonably expected users of the product would not discover its defective condition.

57. As a direct and proximate result of the product's defect and Defendant's failure to warn and/or remedy the defect, Plaintiff was caused to sustain injuries to his left eye, head, and brain, he has incurred medical expenses in an amount not readily ascertainable, lost wages, and will continue to incur medical expenses in an amount not readily ascertainable.

WHEREFORE, Plaintiff Michael Wagner prays for judgment against Defendant on Count V of this Complaint in an amount in excess of Fifty Thousand Dollars (\$50,000.00) that will fairly and reasonably compensate him for his injuries, for the losses he sustained and will sustain in the future, for medical bills and lost wages he has sustained and will sustain in the future, for the pain, suffering and restricted bodily movement sustained and will sustain in the future, for the costs of these proceedings, and for such other and further relief as the Court deems just and equitable.

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